

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Petition of
Panola County, Texas

For Modification of the Television Market
Of Station KFXK-TV, Fox, Channel 51,
Tyler/Longview, Texas with Respect to DISH
Network and DIRECTV

MB Docket No.
CSR - _____

To: Chief, Media Bureau

PETITION FOR SPECIAL RELIEF

Panola County, Texas pursuant to Section 338 of the Communications Act and Sections 76.7, 76, 59 and 76.66 of the Commission's rules, hereby request (hereinafter, the "Petition") that the television market of KFXK-TV, Fox, Channel 51, Tyler/Longview, Texas, referred to as the "Station" be modified to include Panola County (the "County") in northeast Texas with respect to satellite TV provider DISH Network ("DISH") and satellite TV provider DIRECTV ("DIRECTV"). The County has long been assigned by Nielsen to the Shreveport, Louisiana designated market area ("DMA"). As such, the County has been "orphaned" by Nielsen due to its assignment to an out-of-state DMA and has been deprived of the ability to receive from a satellite carrier its preferred in-state television broadcast stations. Consumers in the County have been unable to receive from a satellite carrier important news from their own local cities, nor emergency information quickly and accurately in the County. Further, residents have had far fewer opportunities to view televised news, sports, weather, politics and other things of public interest within and throughout their own state.

The STELA Reauthorization Act of 2014 (“STELAR”) empowered the Federal Communications Commission (“FCC” or “Commission”) to modify a television broadcast station’s local market when it would, among other things, “address satellite subscribers’ inability to receive in-state programming in certain areas.” This Petition thus falls within Section 338’s market modification provision, which allows the Commission to ‘include additional communities within [a station’]...to better effectuate the purposes of this section.”

For the reasons explained below the County requests that the Commission modify the Stations’ local markets, as defined in 17 U.S.C. Section 122(j), to include the County with respect to carriage by DISH and DIRECTV. The County is governed by the constitutionally established Panola County Commissioners’ Court and all actions requested herein are approved by the governing body by formal agenda and vote of the members. The presiding officers of Texas County Commissioners’ Courts are the Constitutional County Judges, and therefore the duly elected County Judge signs this petition below as authorized by the governing body. Counties are exempted from the filing fee for said Petition.

I. THIS PETITION SATISFIES THE STATUTORY FACTORS

As required by STELAR, the Commission determines whether to grant a market modification based on consideration of five statutory factors. These factors reflect the four factors previously applicable to market modifications in the cable context, plus an additional factor to assess “whether modifying the local market of the television station would promote consumers’ access to television broadcast station signals that originate in their State of residence.” The five factors are:

1. Whether the station or other stations located in the same area have been historically carried on: (a) the cable system or systems within that community; and (b) the satellite carrier or carriers serving that community;
2. Whether the television station provides coverage or other local service to that community;
3. Whether modifying the local market of the television station would promote consumers' access to television broadcast station signals that originate in their state of residence;
4. Whether any other television station that is eligible to be carried by a satellite carrier in the community in fulfillment of the requirements provides news coverage of issues of concern to the community or provides carriage or coverage of sporting and other events of interest to the community; and
5. Evidence of viewing patterns in households that subscribe and do not subscribe to the services offered by multichannel video programming distributors within the areas served by the multichannel video programming distributors in the community.

A. This Petition Satisfies the Third and Most Important Factor By Bringing an In-State Local Broadcast Stations to Consumers Who Historically Have Been Unable to Receive It from a Satellite Carrier

Where, as here, the purpose of the market modification is to bring a previously unavailable (via satellite carrier) in-state local broadcast station into a community, the third factor should carry significant weight in the Commission's analysis. Today, because the County is assigned to the Shreveport, Louisiana DMA, local broadcast content available by satellite is oriented to the interests of a different state. The Station is licensed in the Tyler/Longview, Texas DMA, which is in the same state as the County. As the Panola County Commissioners have previously explained, "This is about emergency news, weather and local interest stories." The process will allow the County to access news, politics, sports, emergency information and other television programming from its own area. (See Exhibit 1, Panola Watchman Online Article June 14, 2018. (30 comments from residents online)) One reader, Barbara Jean Zurfluh, comments "To finally get Texas news, sports, weather & politics would be a long overdue blessing for us. I like Louisiana but I'm a TEXAN!

On Tuesday, June 12, 2018 at 1:30 o'clock p.m. the Panola County Commissioners' Court met in Regular Session and voted unanimously to file a petition with the FCC to request modification of the Station to include Panola County. 21 citizens attended that meeting and spoke in favor of said petition (See Exhibit 2 attached).

This Petition therefore satisfies the third factor by delivering in-state local broadcast stations from Tyler-Longview, Texas over DISH'S and DIRECTV'S satellite TV service to consumers in the County who have previously been unable to receive it from DISH and DIRECTV. As explained, this third in-state factor should receive enhanced weight when the Commission considers market modification petitions.

The most compelling case to satisfy the third factor comes from the City of Carthage, Texas. Carthage enjoys the benefits of recent growth and now sees population expansion in city limits that extend into Panola County, Texas. The Panola County duly appointed Elections Administrator Cheyenne Lampley reports as of June 5, 2018, her records reflect that there are four thousand four hundred thirty-five (4,435) registered voters that live in Panola County and are also within the City of Carthage, Texas. The Station covers news regarding Longview, Texas. Gregg County, Texas lies in the Tyler-Longview DMA. In the current situation, Panola County residents, who are also within the city limit of Carthage, Texas, are not able to view the news covering Longview, Texas, due to Panola County's orphaned status. (See Exhibit 3, Letter of Support from Mayor of Carthage, Texas.)

Grant of this Petition would enable DISH and DIRECTV subscribers in the City of Carthage to receive the Station, which offers local-oriented weather, news, sports, political coverage, and advertising, among other things, through their satellite TV

package. As our exhibits and letters portray, the additional coverage request is also a matter of public safety of our constituents.

B. The Remaining Factors Support This Petition

The first, second, and fifth factors all relate to historical or current opportunity to view the State in the County (the first and second factors), and whether the residents of the County have availed themselves of such opportunities (the fifth factor). Since the purpose of STELAR was to facilitate access to in-state broadcast programming neither a lack of historical carriage or coverage nor a commensurate lack of historical viewing patterns for the Station, should weigh against the requested market modification. Because the County has long been assigned by Nielsen to an out-of-state DMA, STELAR's market modification provision marks the first opportunity in many years for the County to receive the Stations' signal over satellite. Given this lack of carriage, residents of the County have had little opportunity to develop any viewing pattern for the Station. It is precisely this lack of opportunity to view via satellite TV, an in-state network-affiliated station that this Petition intends to remedy. Regarding the fourth factor, the County is familiar with Shreveport broadcast stations that should deliver local content, but is unaware of another in-state local broadcast station carried by a satellite provider in the County that offers Longview and Texas-oriented news coverage of issues of concern to the degree expected by residents of the County.

II. EVIDENTIARY SHOWING

The County submits evidence as explained below responsive to the evidentiary requirements in the Commission's rules.

- With respect to Factor 1, Commission rules require that market modification petitions include "[c]able system or satellite carrier channel

line-up cards or other exhibits establishing historic carriage [of a given station], such as television guide listings.” The evidence submitted is a basic lineup card of coverage, Exhibit 4.

- With respect to Factor 2, attached as Exhibit 5 is a map illustrating the location of the County and indicating the Stations’ coverage area based on over-the-air signal strength.
- With respect to Factor 3, the Petition includes many comments and letters indicating consumer public support for market modification. (See Exhibit 6 which consists of 46 letters of support for this change.)
- Although market modifications generally require information on “shopping and labor patterns in the local market,” such data should not impact any decision about whether or not residents of the County should be able to receive Texas based local broadcast stations by satellite. Nonetheless, residents of the County will benefit from being able to receive an in-state local broadcast station from Tyler/Longview because the station provides news, state political coverage, sports and other information that is important to them as Texas residents. Therefore, to the extent necessary, we respectfully request a waiver of this item as such information is not available to the County and offers little to no value to the Commission in assessing the merits of this Petition. This Petition does include evidence of stories run in the Tyler/Longview DMA affecting Longview residents that were not run in the Shreveport DMA, depriving Panola County residents of Carthage, Texas the benefit of local broadcasting.
- With respect to Factor 4, the County provides a listing of Texas Sporting Teams that are preempted in the County for coverage of Louisiana teams. (Exhibit 7)
- With respect to Factor 5, Commission rules require that market modification petitions include “[p]ublished audience data for the relevant station showing its average all day audience...for both multichannel video programming distributor (MVPD) and non-MVPD households[.]” As discussed above, given the lack of available historical carriage of the Stations in the County, to the extent necessary, we respectfully request a waiver of this item.

III. TECHNICAL AND ECONOMIC FEASIBILITY

On June 13, 2018 the County sent to DISH a pre-filing coordination letter pursuant to 47 C.F.R. Section 76.59(e) of the Commission’s rules (Exhibit 8). DISH responded on June 26, 2018 (“DISH Response”) (Exhibit 9) opined in a boilerplate letter that based on DISH’s current knowledge and satellite coverage

capabilities, factors exist that render the provision of the Station in the County to be infeasible pursuant to 47 C.F.R. Section 76.59(e) .

On June 13, 2018 the County sent to DIRECTV a pre-filing coordination letter pursuant to 47 C.F.R Section 76.59(e) of the Commission's rules (Exhibit 10). DIRECTV responded by letter on June 25, 2018 and follow-up letter dated June 25, 2018 (DIRECTV Response") (Exhibit 11) seeking more information. County responded by letter dated June 26, 2018 (Exhibit 12). DIRECTV responded by letter dated July 25, 2018, and confirmed that their engineering department had the details of our request and they would evaluate the feasibility of carriage of the Station requested in Panola County.

Carriage of Texas television in Panola County, Texas is an issue of utmost importance to the citizens of our community. Over the years constituents have expressed their strong desire for Tyler/Longview television programming to the Panola County Commissioners by telephone and personal contact within the community.

Congress authorized STELAR to provide a common sense solution that will benefit our constituents that are disenfranchised by living in the "orphaned" Panola County, Texas and other counties across the nation similarly situated. Our U. S. Senator John Cornyn concurs in his letter of support (Exhibit 14). Likewise, Congressman Louie Gohmert is very familiar with his First District of Texas and the inability of his Panola County, Texas constituents to receive in-state broadcasts. (Exhibit 15) Texas Senator Bryan Hughes also lends his support for Panola County's Petition. (Exhibit 16).

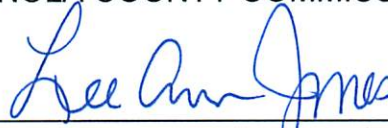
IV. CONCLUSION

For the foregoing reasons, the County urges the Commission to expeditiously grant its Petition.

Respectfully submitted,

PANOLA COUNTY COMMISSIONERS

By:



Lee Ann Jones, Presiding Officer and
County Judge